



ANDREW CUDDY  
MANAGING ATTORNEY

BENJAMIN KOPP  
ASSOCIATE ATTORNEY  
[BKOPP@CUDDYLAWFIRM.COM](mailto:BKOPP@CUDDYLAWFIRM.COM)  
DIRECT DIAL 315-207-5584

November 30, 2023

Hon. John P. Cronan  
United States District Judge  
Southern District of New York  
500 Pearl Street, Room 1320  
New York, New York 10007

**Re: Y.S., et al. v. New York City Dept. of Educ., 1:23-cv-07317-JPC**

Dear Hon. Cronan:

I am the attorney assigned at Cuddy Law Firm, P.L.L.C., to represent Plaintiff Y.S. I have met and conferred with opposing counsel concerning the Court's November 29, 2023 Order, as well as the possibility of settlement. While it appears this matter will unfortunately move forward to briefing, the parties have agreed upon a briefing schedule for which no trial is necessary. The parties respectfully submit that the usual benefits of an Initial Pretrial Conference are not applicable to this matter, and request that the IPTC be adjourned *sine die*. The parties further request the Court's preference on whether or not to receive a copy of the certified administrative record directly from the New York Office of State Review.

This action is an appeal of a matter that has proceeded through a due process hearing and State review under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. 1400 *et seq.*, where an Impartial Hearing Officer ("IHO") found that the Student received a free appropriate public education ("FAPE") and, thereafter, the State Review Officer ("SRO") reversed in part. For Defendant's stated principal defenses, the Answer lists deference to the SRO, lack of jurisdiction over one or more federal claims, and statute of limitations.

Plaintiff's stated bases for jurisdiction are 28 U.S.C. § 1331 and 20 U.S.C. § 1415(i)(2), which together place jurisdiction in the district court for claims arising out of the IDEA's conferral of right to bring a civil action when a party is aggrieved by an IHO's decision without further available review before the SRO. Plaintiff's stated basis for venue, 28 U.S.C. § 1391(b)(1), is Defendant's principal office and residence in New York, New York.

There are no outstanding motions or requests to file motions, apart from in this letter.

No formal discovery has taken place, although counsel have exchanged an IHO decision for a subsequent school year for the same Student. The parties anticipate the only further exchange needed is the record on appeal from the SRO, which requires the Court's preference concerning whether the SRO should send a copy of the certified administrative record directly to the court.

Counsels for the parties discussed the possibility of settlement on November 9, 2023 and November 29, 2023. Each discussion lasted approximately two minutes.

The parties anticipate that the matter is resolvable on documentation, without the need for a trial. Accordingly, there is no estimated length of trial.

Given that the SRO typically needs some time to address requests for the administrative record in its own course of business, the parties have agreed upon the following tentative schedule:

- January 29, 2024 (60 days) – joint motion to file the administrative record under seal;
- February 28, 2024 – Plaintiff's motion for summary judgment;
- March 29, 2024 – Defendant's opposition and cross-motion for summary judgment;
- April 29, 2024 – Plaintiff's reply, if any, and opposition to the cross-motion;
- May 13, 2024 – Defendant's reply, if any, on the cross-motion.

Thank you for your attention to and consideration of this matter.

Respectfully,

s/ Benjamin M. Kopp  
Benjamin M. Kopp

The request is granted. The conference scheduled for December 6, 2023, at 11:00 a.m. is adjourned *sine die*. Plaintiff's letter motion filed on December 4, 2023, Dkt. 15, is thus denied as moot.

The parties shall follow the briefing schedule they have proposed. In accordance with that schedule, the parties shall file the administrative record with the Court, and the Court does not require that it receive the administrative record directly from the New York Office of State Review.

SO ORDERED  
Date: December 4, 2023  
New York, New York



JOHN P. CRONAN  
United States District Judge